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# JOURNAL

## EAST INDIA ASSOCIATION

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[ISSUED JANUARY, 1896.]

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EAST INDIA ASSOCIATION,  
WESTMINSTER CHAMBERS, 3, VICTORIA STREET, S.W.

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1896.



# The East India Association.

Instituted for the independent and disinterested advocacy and promotion, by all legitimate means, of the public interests and welfare of the Inhabitants of India generally.

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The Life Subscription is £14.

The use of the Reading-room and Library is free to Members, who can also have their letters addressed there.

## The Objects and Policy of the East India Association.

THE object of the East India Association has been declared to be the promotion, by all legitimate means, of the public interests and welfare of the inhabitants of India generally. To attain this object the Council earnestly invite the co-operation of all those who, by their position, influence, knowledge of India or administrative experience, are able to render effective assistance, and without whose active and liberal support the work of the Association cannot be accomplished.

The Association would specially appeal to the Ruling Princes of India, who are the natural exponents of the opinions and wishes of their fellow countrymen, and whose rights and privileges it will ever strive to maintain.

The Association would appeal to the educated classes of the Indian people with whose aspiration so far as these are consonant with good sense, moderation and loyalty, it has the warmest sympathy.

The Council would invite the co-operation in India of the influential commercial and non-official English community, and of the active and retired members of the Government Services, Civil and Military, who have consistently laboured to advance the best interests of the people, and who have helped to consolidate, maintain and defend the Indian Empire.

The East India Association has no connection with English party politics, and welcomes as members all those who are interested in the welfare and progress of India, whatever their political opinions. Its attitude with reference to Indian questions is strictly conservative in the truest sense; it desires to encourage all wise and well-considered projects of social and administrative reform, but, at the same time, to protect the people of India from rash and hasty experiments opposed to the traditions of the country, which disorganize its finances and give rise to opposition, ill-feeling and distrust. It endeavours to view all questions of finance, administration, and social progress from the sole standpoint of regard for the interests of the Indian princes and people, whose wishes, sentiments and prejudices should be respected. Lastly, it desires, by timely protest addressed to Parliament, to hinder or prevent the embarrassment of the administration and the injury to the people of India, which are caused by ill-considered resolutions introduced by members of the House of Commons, who are imperfectly informed of Indian affairs.

# PROCEEDINGS OF THE EAST INDIA

## A DEBATE ON ~~JUDICIAL~~ INDEPENDENCE IN INDIA.

A MEETING of East India Association took place on December 3rd 189 at their rooms 3 Victoria Street, Westminster, in order to hear Mr. Manomohun Ghose, Barrister-at-Law, open a Debate on the "NECESSITY OF MAINTAINING THE INDEPENDENCE OF THE JUDICIARY IN INDIA." Sir Lepel Griffin, K.C.S.I., was in the Chair, and the following amongst others, were present:—Sir R. K. Wilson, Bart., Sir Seymour Vesey Fitzgerald, Sir Roper Lethbridge, Dr. G. W. Leitner, Mr. M. M. Bhowmagree, M.P., Mr. J. B. Pennington, Mr. Justice Pinhey, Lt.-Col. H. L. Evans, Mr. A. K. Connell, Messrs. R. W. Allan, H. S. Agarivala, Sheikh Asghar Ali, Zaffur Bahadoor, M. Bhagwanani, D. Chignill, H. R. Cook, J. Dacosta, G. R. Dashtary, G. N. Dutt, J. S. Dobbin, T. T. Forbes, W. A. Ghaswalla, F. S. Gotla, B. L. Koul, N. Louis, Jibandar Mirza, B. C. Mitter, E. S. Morris, P. Pillai, L. Price, J. N. Stuart, Tahl Ram, N. Vaughan, J. K. Vakheria, A. H. Wilson, Mrs. S. Nightingale, Mrs. W. Hampton, Miss Orme, Miss Crawford and Mr. C. W. Arathoon, *Hon. Secretary*.

THE CHAIRMAN, in introducing Mr. Ghose, said it was an excellent opportunity of welcoming to the Association one of the most advanced of Indian reformers. Although the Association had no party objects it was pleased to welcome such an able representative of Indian reform. Mr. Ghose was one of the most distinguished lawyers in Bengal and a high authority on Criminal Law. Mr. Ghose (who was warmly cheered) then delivered the speech which will be found elsewhere in this Journal.

At its conclusion SIR ROPER LETHBRIDGE congratulated the Association on having obtained such a distinguished exponent of one side of this important question which had attracted much attention and been keenly discussed in the Indian press. He bore testimony to the fact that in questions attacked by that press there was much to be said on their side. Mr. Ghose had said that Lord Kimberley and Lord Cross had stated that it would be a valuable reform to separate Judicial from Executive functions, but that the difficulty was a financial one. That opinion would broadly commend itself to most people. Mr. Ghose, Mr. Romesh Chunder Dutt and others however found that the financial question might be grappled with. Now, if ever, was the time when this matter should be settled, because there was now sitting a Royal Commission to investigate such financial questions as these, and, if competent evidence were given before them, that the reform could be carried out without financial stress, no doubt they would report in favour of the measure.

MR. DA COSTA said: The evil which Mr. Ghose has so clearly exposed, is one the magnitude of which can scarcely be overrated. The first duty of a Government is to protect the lives and property of its subjects; that duty cannot be fulfilled, while the supremacy of the law and purity in its administration are considered as of secondary importance by the Government charged with maintaining them.

This is the first time, I believe, that the subject has been publicly discussed in England; and Englishmen, who are justly proud of the absolute independence of the Judicial Bench in their country, will doubtless be startled and grieved to hear that their own countrymen who form the Executive in India, acting under the control and with the sanction of a member of the British Cabinet, have destroyed Judicial independence in the tribunals of our Indian Empire, excepting the four High Courts established under an Act of Parliament, and have materially diminished the usefulness of the latter by obstructing appeals being heard in them from the subordinate Courts which Parliament intended the Chartered High Courts to control, guide and regulate.

The question concerns the welfare of two hundred millions of our fellow-creatures in India; it also concerns the interests of millions in this country—of working men and women who earn their livelihood by being employed in the manufacture of articles consumed in India; and it is appalling to contemplate what their condition may become any day, were calamitous events, like those of 1857 and 1858 to result from the present growing discontent and suffering of the people of India. The Indian markets for English goods would then be suddenly reduced, and perhaps entirely closed for a time; and large numbers, among the working classes in the United Kingdom, who now find employment in supplying those markets, would be thrown out of work, and bereft of their means of subsistence.

Thus, the question materially concerns the English people, and it is of the greatest importance, therefore, that it should be thoroughly understood by the British Constituencies. Let us hope that the example set by Mr. Ghose will be followed by others equally qualified to inform us on the subject, until the people of England realise the danger with which their material interests, as well as their good name, are threatened in the present state of our Indian administration.

MR. A. K. CONNELL thought that some points which it was necessary to bear in mind had been ignored by Mr. Ghose. With regard to the independence of the magistracy, you could not take the state of things in England, transplant it to India and expect the same result. The state of public opinion was to be considered, whether it was well informed, or such a public opinion as you might find, say, in Chitral? Next what was the condition of the press? Did it criticise without fear or favour? Then what was the state of Society? The truthfulness of witnesses also had to be considered. Were the judges men of independent character and position? If all these things were so, one had the conditions which were essential to the independence of the magistracy. Mr. Ghose had admitted that many of the lower magistrates were not independent in character. Supposing they were made independent of the executive magistrate would they still maintain a personal independence? It was said charges were made against the magistrates and not against District or High Court Judges. But did we in England never hear of charges against our police magistrates and J.P.'s? The reason why more charges were made against the lower magistracy was that they dealt with more cases and administered a more summary justice. He did not think the difficulties in the way of

reform were merely financial, but were difficulties inherent in the nature of the case.

MR. BHOWNAGGREE, M.P., felt the greatest sympathy with Mr. Ghose in regard to the reasons he had given for parting the Administrative from the Judicial functions as far as possible but he did not share the opinions, of fright and terror which Mr. Da Costa had indulged in; nor could he see how it could affect the welfare of the Working Classes of England. He did not agree with a previous speaker as to the very serious considerations which lay in the way of trying to solve this much vexed problem. There were difficulties, no doubt: there might be more expense, but what was expense when the question of the purity of Justice was concerned? In introducing, as he had done, a Judicial system into a Native State he had realised the great inadvisability of combining Judicial with Executive functions. If the magistrates in the Mofussil towns could be set apart to perform only Judicial functions it would be a great gain to the cause of Justice in India. Let them be made answerable only to the High Court Judges. If that were done it would soon be found that, without increasing expenditure, increased efficiency had been obtained, and what was more, there would be popular confidence. He wished that Mr. Ghose had dealt more with the remedial side of the question. The great difficulty was to provide a cure for the evils complained of. It would be a blessing alike to the people and to the officers themselves if the Administrative and Judicial functions could be separated.

MR. PAUL PAKKIANADHAM PETER PILLAI contended that the reform recommended by Mr. Ghose was also necessary from an administrative point of view. He thought it would be to the advantage of the officials concerned if the Judicial and Administrative functions were separated. The argument that there might be a loss of prestige was he thought a poor one.

SIR ROLAND WILSON in his capacity of Reader in Indian Law for 14 years at Cambridge had had occasion to see to the preparation of young Indian Civil Service probationers and he complained of the inconvenience of having to prepare young men at the same time for two careers, so different as the Executive and the Judicial. If the two were separated, the preparation could be of a much more thorough character. For many reasons he would prefer that the Law should be studied entirely in the country in which it was to be administered. There were of course various objections to that—reasons as to climate for instance. Mr. Ghose had dealt with the importance of sending out Barrister Judges from England in order to secure the independence of the Judiciary. If that independence were secured in the manner proposed perhaps that would not be necessary, and on other grounds he would be rather glad to dispense with the class of Barrister Judges if an equally good class of men could be secured drawn specially for the Indian Service. Although the independence of the judiciary was a very important matter, it must be remembered that it was not desirable that they should be independent of the Legislature. He thought there was a tendency on the part of Barristers sent out from England to assume, unless the contrary was proved, that the law of India

must necessarily be the same as the law of England. That might have been so in the old days, but it was far from being so now. It had been stated that the decisions of the District Magistrates were constantly reversed by the High Court. No doubt that was so, but, in certain cases, the ignorance had not been entirely on the part of the subordinate Magistrates. In one case the High Court had finally come round to the view previously taken by the Lower Court which they had overruled.

MR. B. C. MITTER referred to the state of things in England in the 17th and 18th centuries when gross miscarriages of justice daily occurred and the Bench was abjectly dependent on the Crown. What was it that had led to the independence of the Judges of the present day? It was, to his mind, simply the fact that the judges now felt that they were thoroughly independent of the Crown, and because they knew that as long as they did their duty fearlessly there was no power in the United Kingdom to touch a hair of their heads.

MR. TAHL RAM vindicated the law-abiding character of the Punjabis. He called attention to the fact that the proposed separation of Executive and Judicial functions would much lighten the labours of the collectors and obviate the loss of health arising from overwork. With regard to the suggested financial difficulties he proposed that the Court fees should be raised to 8 or 9 per cent. from the present  $7\frac{1}{2}$  per cent.

MR. J. LOUIS wished to echo everything that had been said by Mr. Ghose. He mentioned a case in which an accused person who had been condemned to several years of imprisonment had his sentence, on appeal to a Superior Court, increased to capital punishment and, before he had time to appeal to the Chief Court, owing to the distance of his home, was hanged!

MR. GHOSE in reply said he thought that Mr. Connell had misunderstood an important part of what he had said. Mr. Connell had supposed that the proposition was to put the Subordinate magistracy entirely independent of even appellate control. Nothing was further from Mr. Ghose's mind. What he suggested was that appeals from their decisions, instead of lying to an Executive officer, should lie to a purely Judicial authority such as the District Judge. There was a large body of Judicial Officers called Moonsiffs dispensing *Civil* justice. No one heard any complaints against them, and the reason was that they were not subordinate to an Executive Officer. As for the remarks that some parts of India were different to others, he had begun by pointing out that that was no answer to his argument. He had taken care to say that in some parts the proposed reform might be introduced experimentally. A previous speaker, who had not been in Bengal, had hit the nail on the head when he somewhat vaguely said there were some reasons why this reform could not be carried out. He went very near those reasons when he spoke of authority, prestige, and so forth. If you want to introduce the English system you must make those who administer justice independent. If, on the other hand, any State reasons required that you should not have the English system, then do not introduce it at all, but do not give a sham under the cloak of the English system. Sir Roland Wilson had said it was a mistake

to send out Barrister-Judges from England. That he could not agree with.

SIR ROLAND WILSON : I said under present circumstances.

MR. GHOSE : A time may come when you may dispense with sending judges from this country, but it is very far off yet. There is a decided advantage in having a fresh English mind to bear upon Indian questions, even as regards the interpretation of Indian law.

SIR LEPEL GRIFFIN had much pleasure in saying that with regard to the main point of Mr. Ghose's remarks he was entirely in accord with him and he thought that the reform advocated might, without any detriment to authority or prestige, be granted by the Government of India. He would like to see the Judicial office separated from the Executive as far as possible and he thought there would be no inconvenience in placing the whole of the subordinate magistrates under the Judge and not under the Magistrate of a district. Mr. Mitter with admirable sense in his historical parallel had very much strengthened that argument. Still the question might be pushed to an extreme and it would be a mistake to imagine that the separation of the executive and judiciary was a fundamental part of the English system of law. On the contrary, the mass of judicial work in England was done by unpaid magistrates who united executive and judicial functions. He did not imagine that there were any very mysterious or secret reasons for any opposition on the part of the Government of India to the reform advocated by Mr. Ghose. It was not, he thought, a question of prestige. There was in many parts of India a feeling that a Magistrate of a District, being responsible for law and order, should have control generally over the Criminal administration, and that the police should be subordinate to him. This was undoubtedly the case in the wilder border districts of the Punjab. It was more a question of convenience and expediency and expense than of prestige and the time he hoped would come when they would be able to see a complete separation ; and to the particular reform which Mr. Ghose had advocated he certainly gave his general adherence. He saw with pleasure a great many young men from India present and would be pleased if they came oftener to the meetings of the Association, and they would be gladly welcomed as members. He concluded by moving a vote of thanks to Mr. Ghose.

DR. LEITNER in seconding the proposal, said that Mr. Ghose, a leader, if not the founder of the Indian National Congress, had achieved a complete triumph on a common platform of the East India Association where he was delighted to meet him. He assured Mr. Ghose, however, that even in Chitrál the principles of justice were the same as all over the world, whilst in India nothing could exceed the keen and delicate discrimination of both Hindus and Muhammadans of the old school in matters of judicial decisions. So far from ignoring our prestige, the absolutely independent administration of justice would vastly increase it among the natives of India (Cheers). This was the result of hereditary culture, of which Mr. Ghose himself was an eminent example. This culture had permeated to the lowest peasant in India, making of him, in his sense of honour and of duty to his family and caste, the beau-ideal of the most perfect gentleman

in Europe (Cheers). The natives of that country, therefore, need not turn to England for the elements of judiciary independence; they had in their history, literature and religions an abundance of material and examples from which they, in common with Europe, would profit—all the natives need do was, was drawing deep from the fountains of their own Oriental learning, to turn to England and her law for purposes of comparison and of encouragement (Cheers). It was carried by acclamation.

MR. TAHL RAM proposed and Mr. Mitter seconded a vote of thanks to the Chairman, and the proceedings then terminated.

#### LECTURE ON KASHMIR BY MR. WALTER R. LAWRENCE, C.I.E.

A MEETING of the East India Association was held at the Westminster Town Hall on Friday, the 13th December 1895, at 4 p.m. The Rt. Hon. G. CURZON M.P. was in the chair and the following, among others, were present: Sir Juland Danvers, Sir H. Stokes, Sir G. S. V. Fitzgerald, Sir Henry and Lady Cunningham, Lady Hogg, Lady Wills, the Hon. Mrs. H. Denison; Generals Sir M. Biddulph, Sir N. Chamberlain; Major Generals Berkeley and Bushman; Surgeon Generals Cunningham and Muschamp, Deputy Surgeon General J. C. Penny; Cols. Boulderson, Gardner, C. H. Gardner, R. Tomlinson, Woodthorpe, H. Cooper; Majors Baines, Mallett, Baynes, Mansfold; Captains G. Biddulph, Gorman, A. B. King; the Rev. and Mrs. C. J. Robinson; Dr. and Mrs. Duka; Dr. Pasteur, Dr. and Mrs. Window; Mr. Justice Pinhey, Dr. G. W. Lejtner, Prof. E. Hull, Mr. F. Arbuthnot, Mr. and Mrs. G. Burls, Messrs. W. N. Burne, H. R. Cooke, A. K. Connell, W. G. Cummins, H. Dunderdale, T. Edgcombe, A. W. Everest, T. C. Farrer, A. Guthrie, W. Hampton, Q. Hogg, J. W. Hughes, A. Michie, G. Macartney, E. S. Morris, T. C. Morton, Zaffer Bahadoor, B. L. Koul, Mr. and Mrs. A. J. Lawrence, Mrs. W. R. Lawrence, Miss A. Lawrence, Mrs. E. Moon, Messrs. L. C. Probyn, H. Pasteur, J. O. Newman, A. Rogers, W. Stanford, T. Sheen, T. E. Spencer, A. R. C. Statfield, C. Tomlin, T. Ward, P. Williams, Wing, R. H. Wilson, Wingate; Mr. and Miss Rogers, Mrs. and Miss Towsend, Mrs. and Miss Jay; the Misses E. Allen, Currie, Ewart, Greig, James, B. Johnson, G. N. Phillips, Rogers, Webster; and Mr. C. W. Arathoon, the Honorary Secretary.

The Chairman in introducing the Lecturer, Mr. Walter R. Lawrence, C.I.E. said:—There is no man better fitted to read a paper on this subject than Mr. Lawrence. His is no fleeting or accidental connection with Kashmir. For five years he has lived in that country and has gone in and out amongst the people. Seventeen years since we were at Balliol together and he was one of the students who were sent up by the revered Master of that College, the late Professor Jowett, to join what is in my judgment the noblest, the most highly organised and the best equipped service in the world, namely, the Civil Service of India. It will always, I think, be amongst the foremost of the titles to respect of the late Master of Balliol, that he devoted so much of his time and energy to the furtherance of the interests of that service. From Oxford, Mr. Lawrence went to India and there after considerable experience in the Official and Agricultural Depart-

ments of the Government, his services were lent for a period of five years as Settlement Officer to the Kashmir State. You all know here what settlement work is in India and you can understand how during the five years of his tenure of that post Mr. Lawrence was brought perhaps in closer contact, not merely with the rulers and the upper classes but with the zemindars, the peasants and all classes of the population of Kashmir than any Englishman has been for many years past. The result of his work is the now existing and new settlement of the Valley of Kashmir. Having been there myself and having heard of Mr. Lawrence's work on the spot from those familiar with his character I may say its results have been threefold. In the first place it has added largely to the area under cultivation; secondly, it has added to the revenues of the State and thirdly and perhaps more important of all it has increased very largely the prosperity and contentment of the people in the Valley of Kashmir. Mr. Lawrence's name is a household word. I believe he has done more than any Englishman of recent years, not merely to benefit the people but to establish the justice and beneficence of British Rule. I am proud to stand here with Mr. Lawrence this afternoon and I consider this audience ought to think themselves lucky in hearing a paper on Kashmir from Mr. Lawrence. (Applause.)

Mr. Walter R. Lawrence then proceeded to deliver the Lecture on Kashmir, which will be found in full elsewhere in this Journal.

In the discussion that followed

General SIR MICHAEL BIDDULPH said that having been a visitor on many occasions to Kashmir he could confirm the feeling of admiration which the Lecturer had so ardently expressed. The Kashmiri were a most interesting people who had through long ages suffered great oppression and he could only hope that with the aid of the Settlement carried out by Mr. Lawrence and a more complete form of Government a bright future would dawn upon them.

PROFESSOR EDWARD HULL F.R.S. enquired whether the Lecturer could give any information as to the progress of the Government works for the improvement of the water supply of the capital of Kashmir?

SIR NEVILLE CHAMBERLAIN said that he had visited several of the spots mentioned by the Lecturer, but being a soldier had not mixed much with the people. He had no doubt that Mr. Lawrence's work would be an untold blessing to the district but at the same time he hoped that it would not in the end be followed by the dispossession of its present ruler.

SURGEON LIEUTENANT COLONEL J. INCE M.D. said that he had had the privilege of passing some three seasons in that lovely country which had been so eloquently described by the Lecturer and it was a great pleasure to be able to go back to what he might call "the old Kashmir" as distinguished from "the new Kashmir" represented by Mr. Lawrence. At the time he was there undoubtedly there was great need for a broom, but he did not agree that the Cholera was due to the want of brooms. He thought that sanitation and cholera had no more relation to each other than cheese had to the material of the moon. He had great pleasure in testifying to the accuracy of the descriptions given by Mr. Lawrence.



Dr. G. W. LEITNER wished to point out that it was evident that Mr. Lawrence was acquainted with the language of Kashmir. He, therefore, in addition to his own great qualities, possessed the secret of acquiring the sympathy and the confidence of the Kashmiris. That was a very important matter and he wished that there were more Englishmen who possessed a command of that interesting language. Their Chairman having taken part in the Oriental Congress of 1891 would sympathise with the view which could not be too often expressed that the secret of success in Kashmir as elsewhere was linguistic knowledge. Another important matter was sympathy and he would undertake to say that none of the writers on Kashmir had spoken so kindly of the very much abused Kashmiris who were a most versatile race full of imagination. While in many respects resembling the Bengalis in quickness of perception, they had not their imitateness. If Mr. Lawrence's suggestion as to the employment of European capital for developing Kashmir industries could be carried out, many of the difficulties confronting the English in their own country, such as existed in Lancashire, would be solved. If some of the plant could be transferred to India, where labour was so cheap, it would at once solve the distress of the manufacturers, affect the exchange question and confer good on the country itself. With regard to the suggestion as to the development of the silk industry there were a number of handicraftsmen from different populations which might be settled in Kashmir, such as the Armenian silk-weavers of Brussa, Jewish and Mennonite emigrants and English Colonists—but he should not like them to go in and *supplant* the durable manufactures of Kashmir, but rather develop the country on indigenous lines, which were now, unfortunately, neglected. Whatever was done, the Kashmiri himself ought ever to be treated as the owner of the soil. Another point touched upon by the Lecturer was the absence of crime and vice among the Kashmiris, which showed they did not deserve the character which had been given them as one of the “three races to be avoided whenever there should be a scarcity of men.” As to the beauty of Kashmir they would all know the Persian lines: ‘If there is a Paradise on earth, it is here—it is here.’ The description of it in a recent article in the *Nineteenth Century* and the graphic account given by Mr. Lawrence, were charming contributions to English literature, but it was with the practical suggestions in them that the Association was chiefly concerned. He concluded by tendering the Lecturer their heartfelt thanks for his paper and especially for the suggestiveness of his remarks. He trusted that others and, above all, the Chairman would conclude the discussion by making some observations upon the subject.

The CHAIRMAN, in compliance with Dr. Leitner's request, said that he had really no right to speak greater than that of anybody else in the room, namely, as having been a traveller, not for purposes of business or official employment but for pleasure and information, to Kashmir and he had no such claim as Mr. Lawrence to address them. He would like to join in the tribute of congratulation to Mr. Lawrence on the exceedingly happy and picturesque manner of his address. It was characterised not only by obvious familiarity with the subject but also by graces of style and lightness

of humour that were not always present in Lectures on such subjects. It was unnecessary for any subsequent speaker to enlarge on the æsthetic charms of Kashmir. Anyone who had ever entered the Valley from the South or after exploring the snowy regions to the North once again from the top of the pass got a sight of that enchanting vision of the happy Valley of Kashmir spread out before him must have felt that there he had perhaps more than in any other part of the world the best counterpart of the Elysian Fields. He could not quite follow Mr. Lawrence in his admiration of everything to be found in the Valley. Srinagar was considered extraordinarily beautiful. He (the Chairman) had found its beauty, such as it was, slatternly, tumble-down and decayed. Mr. Lawrence had talked with sympathy about the artistic manufactures of the country but remembering what they used to be, as could be seen in museums, he thought the present artistic manufacturers were declining. The old decoration of arms and leather had died out. The silks and enamels you could buy at the Army and Navy Stores much easier and rather cheaper than at Srinagar and for his own part he did not think they were particularly beautiful, but there was the most exquisite wooden panelling and he was surprised that it was not more introduced into English Houses for ceilings and walls and wainscoting and other purposes. The Chairman then continued as follows: There is another aspect in which Kashmir has an interest, though I do not agree it has to everyone. It is one of those places with which, according to the theories of some amiable persons, England as the ruling authority in India ought to have nothing to do. Kashmir lies outside and beyond the great Indian plains separated by an immense range of mountains from the bulk of India and just like Afghanistan, like Nepaul and Burmah, it might be said that this country lying outside the pale of the Indian system is one with which we have no particular connection and with which we did wrong to interfere. Again it might be said "There is a native Ruler, there is a native system of Government; native institutions and habits. Why should you intervene? Why should you interfere with these innocent people? Why should you introduce your foreign customs and methods of Government amongst them? Why should you acquaint them with the irrepressible features of Mr. Thomas Atkins?" I think there is a very good answer to all those queries. I should undoubtedly rank myself with those who hope that the native rule in Kashmir may continue. I do not think there is anything more unfortunate in Oriental countries than the substitution for the native rule, with all its picturesque interest and its facility of adaptation to the circumstances of the people and the Country, of the hard and fast and somewhat pedantic accuracy of the British system. I hope very much that that system will continue, but at the same time when I contrast Kashmir as it is now and Kashmir as I read of it in history I can only be thankful for the sake of Kashmir that that amount of interference which the British Government has put forward has taken place in that country. We hear from Mr. Lawrence that in the days of the Mogul Sovereigns the Valley of Kashmir was their playground and pleasure. True; but I suspect very much that where Kings sport subjects are not always at ease

and whatever might have been the state of the Kashmiris in that time we know perfectly well that under the Pathan and Sikh rule oppression and crime and iniquity of every description was rampant in Kashmir and yet if we go there now and travel in that country we find peace and contentment; we find good Government under English auspices and work like that done by Mr. Lawrence himself in the country and to any of those amiable but as I think mistaken dogmatists who are always laying down the law that England ought not to interfere in countries that lie immediately outside the direct scope of its Government I would point to Kashmir and say: there is an instance where the happy compromise is struck between leaving native Government and native institutions alone and exercising that amount of interference and control which is required to bring justice and good government to the people. [Hear, hear.] There is another aspect in which we have done in Kashmir what no previous conqueror has ever attempted to do in it and I am brought to this point by the presence here of Sir Neville Chamberlain. I had the good fortune when in Kashmir to have as my fellow-traveller his distinguished nephew, Colonel Neville Chamberlain, the military Secretary, also an English officer lent by the Indian Government to the ruler of Kashmir. It is perfectly true that after Mr. Lawrence's description none of you would expect a Kashmiri to be a fighting man, nor is he, nor did Colonel Chamberlain expect ever to make him a fighting man. He is not of that kidney; but the Imperial Service Troops started in Kashmir as in other parts of India, under the system inaugurated during the Viceroyalty of Lord Dufferin and supplied in the case of Kashmir by the Dogras who, as you have been told, form the ruling caste in the country and the Goorkhas who take service under Kashmir nearly as readily as they do under ourselves—the Imperial Service Troops of Kashmir organised and looked after by Colonel Neville Chamberlain, supply at this moment a body of troops almost equivalent to any we have in our British Service on the frontier, and a body of troops who during the recent campaign in Chitral have fought gallantly under British officers covering themselves with glory and not merely fighting for that which is their adopted country but fighting for the British Raj. I know nothing in my experience of India which is more creditable than the way in which these Imperial Service Troops under the guidance of British officers have been trained into a first-rate fighting force. I must have seen many hundreds of them during my journey up to Gilgit and on to Chitral and if no other justification were forthcoming of the British work and interference in Kashmir I would point to that and say there you have a first-rate and loyal and efficient safeguard constituted both for the British Empire and for the State itself whose subjects they are. [Applause.]

That brings me to the only other point on which I desire to say a word. Mr. Lawrence has devoted the bulk of his remarks to-night to a description of the physical features of the country and of the character of its inhabitants. He has spoken very much of Kashmir proper; that is to say the Valley and the Nullahs which open into it but we must remember that the political influence of Kashmir extends over a very much wider area. Kashmir exercises suzerain relations over an immense tract of territory to

the North and all the way from that Valley depicted on the map right up to the basin of the Oxus is a prodigious mountainous belt, 200 miles in width furrowed by glens, down which thunder impetuous streams, inhabited by wild and independent tribes all of whom at one time or another during the last 50 years have been brought under the Suzerainty of Kashmir. Here again I am confronted with the amiable theorist of whom I have been speaking—the class that say to me: “Why should you have anything to do with these interesting and independent communities? Why not leave them alone in their native valleys and glens? Why subject them to the British system?” Again I say you must go there to see what British influence means to give an answer to those who in this country either in the Press or on platforms decry the policy and attitude of the Indian Government as to what they think is a policy of annexation without knowing what the actual influence of British Government and British officers means as applied to these people. These people of whom I am speaking,—these interesting and ancient communities, most of them Aryan in origin, closely attached to their independence and who have immemorably lived in these glens, for the most part spend a life of internecine warfare and rapine and plunder and of theft. That has been the characteristic incident of life in the regions between the Himalayas and the Hindoo Koosh. One fine day they are brought within the radius of British Rule. An expedition takes place of which they may be for the moment the victims; but the victims of one year are the contented subjects of 5 years later and not merely the contented subjects but the loyal assistants and allies. We have only to remember that in 1891 we were fighting against the little states of Hunza and Nagyr and that in 1895, only the other day, it was very largely by their assistance we recovered our jeopardised position in Chitral. In those States extending from Hunza on the East to Chitral on the West, I believe the introduction of British influence has done wonders for those people. It is true that they were wild before, but they were not wild animals. They have in them a vigorous and splendid manhood—a manhood very improperly devoted to raids on each other, slave-hunting and to petty warfare to which they had always been accustomed. That manhood under British rule on our frontier is finding a proper outlet and for my own part although I may not carry any here with me in what I have been saying, I do sincerely and deliberately rejoice when one of these wild countries without any jeopardy to their native independence is brought within the area of British influence because I believe it does that good for them that has been already done to Kashmir and which work the reader of the paper this afternoon is so well qualified to push forward. [Cheers.]

The VOTE of THANKS to the Lecturer was carried amidst much applause.

A vote of thanks to the Chairman was proposed by Mr. LESLEY C. PROBYN, seconded by Dr. LEITNER, which was carried by acclamation, and terminated the proceedings.

## NECESSITY OF MAINTAINING THE INDEPENDENCE OF THE JUDICIARY IN INDIA.

BY MANOMOHAN GHOSE, BARRISTER-AT-LAW.

AMONG Englishmen, of whatever shade of political opinion, there are not two views upon the subject of Judicial independence. The whole Constitution of this country from the days of the Stuarts is bound up with it. Has any necessity, therefore, arisen in India, as a question of fact and not of principle, for guarding the independence of those who have to administer justice? My honest conclusions and inferences from facts within my experience may be entirely wrong and even the facts themselves, which I will now submit, may be capable of a different explanation from mine. The subject also is one that affects the whole of India, whilst my professional experience is entirely confined to the Lower Provinces of Bengal.

It is to the Criminal Courts that I particularly desire to call attention. The feeling of the thinking portion of my countrymen is that justice was, on the whole, never better administered in India than at present. This even-handed justice in all Courts is the main cause of our contentment, happiness, and loyalty. If there is any defect in the system which has a tendency to impair that appreciation I think it is the duty of every Englishman, as well as of every Indian subject of the Queen, to point it out with the view to its being remedied if possible.

The administration of justice in India is practically in the hands of the covenanted Civil Servants. No student of British Indian history can fail to acknowledge the great benefits which that Indian Civil Service has conferred upon my countrymen. That service has produced administrators of whom not only India but England may well be proud.

It has also produced Judges who, though not "professional" men, will in point of brilliancy and independence, bear favourable comparison with the best Judges of England. If, therefore, in the course of my observations I point out certain defects in the present *system*, the fault is *not* to be laid at the door of *individuals*.

Although the administration of criminal Justice is also chiefly in the hands of the Covenanted Civil Servants, a very large proportion of the magistracy consists of my own "uncovenanted" countrymen. Though the severity of my remarks falls upon them, who compose the subordinate magistracy, they too are victims of the "system."

There are three grades or classes of magistrates in India invested with three classes of power, of whom the third is the lowest. These magistrates may belong to either the covenanted or the uncovenanted Civil Service, but are mostly natives. They all act under the District Magistrate who is always of the first class. He combines in himself large executive, with judicial, powers. He is the representative of the Government, the head of the police, and of every conceivable department in the district, and he is also the Appellate Court from the decision of second and third class magistrates. The appeals from the first class magistrates lie to the District Judge, who is also the Sessions Judge who tries the more heinous cases which cannot be tried by the magistrates. Over the District Judge is the High Court of the Presidency consisting of Barrister Judges, members of the Civil Service, and natives of India who are qualified by their learning and eminence to fill the responsible position of a High Court Judge.

Now, is there anywhere any tendency to interfere with the judicial independence of these different classes of judges? So far as the Government, the policy of England, and even the majority of officials are concerned, there is no desire to unduly interfere, but the system works in such a way, that the result does affect judiciary independence.

The greatest complaints about the interference with the

judiciary relate to the subordinate magistrates, who whether first, second, or third class are dependent on the District Judge for their promotion and also to a great extent for their transfer from one district to another. The magistrate of the district, being the chief executive officer, has to make over cases to the subordinate magistrates, or Deputy Magistrates as they are called on our side of India, for trial according to their respective powers. They are chiefly Bengali gentlemen, who find that, as a matter of fact, they cannot perform their judicial duties without being interfered with by their executive head. It may not be done intentionally, it may be through ignorance, but the effect of the interference is to make the subordinate magistrates feel that they have no discretion and no judgment of their own. For instance: the Deputy Magistrate thinks fit, upon the evidence, to release a man on bail, in the exercise of his judicial discretion. If the Superintendent, or Inspector of Police, does not approve of it, he merely complains to the District Magistrate that criminal A has just been released by magistrate B on bail whereupon the District Magistrate may immediately send a slip to his subordinate asking to explain how he came to do so? This frightens the Deputy Magistrate who thinks that he may have committed a great wrong, and in the next case will probably not release a man on bail, even if he thinks that he ought to do so, lest he should incur the wrath of his official superior. This sort of thing is of almost daily occurrence. I have known instances in which Deputy Magistrates have been told, by the District Magistrate, who meant no harm or may even have thought that he only did his duty: "I have formed a very strong opinion on this case: I think the accused ought to be severely punished. I make over the case to Baboo A, B, or C." This practice is due to the system which combines executive and judicial functions in one officer, who, just as he would in an executive matter, sends a confidential *chit*, to his official subordinate in a judicial matter also. In

political questions this may be right, but in the administration of justice it is altogether out of place. We may be told that under the law the District Magistrate has a revisional jurisdiction over his subordinate. Yes, but the law never contemplated that, whilst a case is pending, the magistrate trying it should in any way be interfered with. Once, whilst defending a case, the Deputy Magistrate said to me: "I have just received a *chit* from the District Magistrate that I must do so and so." On my representing that his discretion could not be interfered with, he replied: "I am only a subordinate; you had better speak to my Head." This I did, but the District Magistrate only affirmed, in the most innocent manner, that he had a perfect right to interfere because the Deputy Magistrate was his subordinate. I have known a District Magistrate deliberately make over cases, where the evidence was so strong that one could not resist a conviction, to the second or third class magistrate so that the appeal might lie to himself. Under the code of 1872, the Appellate Court had the power, now happily been done away with except in the case of the High Court, of enhancing sentences. A District Magistrate once made over a case to the subordinate magistrate, who sentenced a man to two months imprisonment; the man appealed to the District Magistrate, who made it six months! [Since the alteration in the law, in consequence of the scandal which such enhancements led to, this cannot now be done.] I brought up this and other cases to the High Court which quashed the whole conviction. Such a state of things causes much heart-burning among the people, who say: "We cannot get justice." If the District Magistrate has, from *ex parte* representations of the police or otherwise, made up his mind to convict a man no subordinate of his will acquit him, however innocent. Sometimes the subordinate magistrates imagine that a particular decision will be agreeable to the District Officer. Do not hastily blame them. They have not had the education of the covenanted civilian, nor the advantage



of associating with English people in this country. I will give a glaring instance of "the system" which came under my observation. A man complained to a Deputy Magistrate that he had been severely thrashed by the District Magistrate. The marks of the thrashing upon his person he showed to the Deputy Magistrate, and asked for redress. The Deputy Magistrate was much disturbed on finding that the complaint was against his own superior officer, and without putting a single question he wrote on the complaint: "This case is manifestly false—I dismiss it and I call upon the complainant to show cause why he should not be prosecuted for bringing a false charge." In the meantime, the man appealed to the judge of the District against the order dismissing his complaint. The rumour reached the accused District Magistrate himself, who happened to be in the interior, and, as any Englishman of honour would do, he immediately wrote a letter to the District Judge, stating that he did strike the man under great provocation, thus admitting the whole thing. This case is no doubt illustrative of certain features in national character: the Englishman comes forward, and admits what he had done; the Deputy Magistrate who probably imagined that his superior would deny the accusation, in anticipation dismisses the case! The only practical inference to be drawn is that subordinates are in great fear of their superiors upon whom their future prospects depend. The only remedy is to devise some scheme whereby the magistrate of the lowest grade may have his discretion unfettered. That is what I ask for, but it is not all. The second or third class magistrate often says when a case has been made over to him by the District Magistrate, to whom the appeal lies: "I know my superior would be glad if I convicted this man, and he is moreover the appellate authority; so that it is safer for me to convict."

Then as regards the District Magistrates themselves. Sometimes from the best motives they will make mistakes

which make one almost shudder. The following came within my own experience : A covenanted magistrate not long ago came to a district and asked a Zemindar for a subscription of Rs. 20,000 for a public object. The Zemindar did not quite see his way to give it. The magistrate had heard that before he joined the district there had been a criminal case against the Zemindar. He suddenly looked up the papers and of his own motion revived the prosecution against the Zemindar and made it over to his subordinate to try. The Zemindar naturally got frightened. Letters then passed through an intermediary to the effect that if the Zemindar would pay up the subscription the prosecution would be dropped. Under my advice the Zemindar applied to the High Court to bring up the whole proceeding. The High Court, surprised at the case, sent for the Record, and issued a Rule to show cause why the whole proceedings should not be quashed. The Crown Officer who came to show cause said to me " We had better not have a discussion of this very ugly case ; I will consent to the proceedings being quashed, if you do not expose this magistrate." I agreed. The order was set aside and so far as public action went, there the matter ended, but does it not show the evil of the combination of executive with judicial functions ? Until this system is modified, the people will not have confidence in the purity of the administration of justice.

The Sessions Judges hear appeals from first class magistrates. They have only a revisional control of sending cases to the High Court ; and none over the second and third class magistrates. Throughout Bengal there is a feeling of the greatest respect for the justice administered by them. They are not lawyers trained in England, but belong to the same service as the covenanted magistracy. Yet, how is it, while there is every confidence felt in them, there is so much less in the justice of the magistracy ? The reason is not far to seek. The District or Sessions Judges do not combine executive with judicial functions nor are

they subordinate in any way to any executive officer except to the Government of Bengal for their appointments and promotions. They are only subject to the High Court. Of late years, however, there has been a tendency on the part of the executive to interfere indirectly even with their independence. District Judges have recently complained bitterly of it and this encroachment of the executive is also very much to be deplored.

Over the District Judge there is the High Court. There is not another institution in the country which commands greater respect and confidence. The High Court Judges, very often under the orders of the Chief Justice form a Bench, each consisting of two Judges. Although they hold their offices during the pleasure of the Queen, they are thoroughly independent of the executive. This frequently leads them to reverse the judgments of the subordinate magistrates who sometimes feel irritated at their treatment by the High Court. It is not surprising, after what I have revealed, that the High Court should sometimes feel bound to reverse their decisions. This causes friction between the Executive in the interior and the High Court Judges. In one instance, a District Magistrate had the impudence in an official reply to sneer at the judges of the High Court and to say he did not care how they decided. The High Court may be magnanimous enough to overlook this gross contempt of Court, but the people all know of it; it gets into the papers, and it certainly is not calculated to enhance the respect which ought to be felt for the highest Court in the country. In my early days the Government and executive authorities, as a rule, loyally accepted a decision of the High Court upon any question of fact as final. Now the tendency is to sneer at its decisions and those of the District Judges, yet, while the Executive often form their conclusions on confidential official *chits*, and have no chance of sifting any question by cross-examination, the Judges, who are the constituted tribunals of the country, have the advantage of hearing both sides of the question and naturally

may be presumed to come to a more correct conclusion. The tendency, indeed, is to decide cases *before* the Judges themselves have decided them, e.g. : a police officer sends up a case : the Executive take the view of the police : *before* the witnesses are cross-examined, the Executive promote that police officer. When the case is submitted to a Judge and Jury they come to the conclusion that the whole case was false and, perhaps, fabricated by the police officer in question. Then the Executive resent the Judge daring to say of one of their men that he has fabricated evidence, and there is friction. Indeed, Executive officers are always angry at a Judge commenting on the conduct of the police, that they say injures its *prestige*. This *prestige* is a tremendous bugbear in India, of administrators as well as of Judges. Justice is often sacrificed at the altar of *prestige*. The question often is not whether a man is guilty or not, but "a crime has been committed, the police have got hold of a man, and why should the Judges say that he is innocent?" I look upon the existence of this feeling as fraught with great danger. Do our Courts exist to carry out the behests of the Executive or to find out the truth and deal out even-handed justice? I have said that the High Court Judges are as a body thoroughly independent. Yet the Bengal Government, or its Secretary, only a short time ago published a Resolution in the *Calcutta Gazette* censuring the Judges of the High Court for certain decisions which they had given! The idea of a Secretary in a Government Office censuring Judges! The Bengal Government also asserted the right of criticising the conduct of the subordinate judiciaries. The High Court protested, but to no practical purpose. The matter was referred to the Secretary of State and *he* thought that the Lieutenant Governor was doing his duty, so were the High Court Judges, but *he* need not give any decision! The High Court, and the District, Judges are, as a body, independent, but how about a subordinate Judge who knows that a particular decision may ensure his transfer to an unhealthy district? Take human nature as it is all

over the world and the answer is obvious. The evil in India has reached its ~~climax~~. Native magistrates, many my personal friends, have privately shown me documents which they could not make use of while in the Service, asking me whether there was no remedy to a state of things which compelled them to decide a case as directed or be told that they were insubordinate. In many cases, no doubt, the District Magistrate may not be conscious of the impropriety of interference, direct or indirect. The people of Bengal, however, are shrewd and subtle, and their confidence in the justice of the magistracy is shaken by the present system, a standing cause of discontent.

Some people complain of the Native press. It will often write on imperfect information and indulge in unfair criticism, but the cases which give rise to these attacks are mostly cases of magisterial misconduct.

Is it not time now that another system be devised whereby the present evils may be remedied? Let the District Magistrate, as he is now, remain the chief executive head of the district, but let the magistracy who try cases be subordinate not to him, but to the District Judge. This reform Lord Kimberley, in the House of Lords, declared was very desirable, and his predecessor, Lord Cross, in the same debate, declared that its introduction was of the utmost importance. The Secretary of State was, however, "advised" that for financial reasons the reform could not be carried out. So far as Bengal is concerned, the reform can be carried out with great facility, a slight alteration in the Criminal Code and without costing the State an additional rupee. My friend, Mr. Romesh Chunder Dutt, has framed a scheme in which he shows that the whole of this reform could be carried out with the existing staff of officers, and without any additional expense, and his opinion is supported by Sir Richard Garth and others. Our best thanks are also due for the great service in this cause by Mr. Da Costa, an honoured member of the mercantile community of Calcutta. The real difficulty is this, though

Lord Kimberley shrank from giving it, that the Executive and the Magistracy are under the impression that their prestige will be weakened. But this prestige difficulty does not stand in the way in the presidency towns of Bombay, Madras and Bengal where the magistrates are not subordinate to the Commissioner of Police, and yet the Commissioner of Police has as much prestige as he ever had. Nor does the question of expense bar the way. Then why not carry out the suggested reform, at any rate experimentally? I do not advocate the separation of judicial and executive functions in Chitrál, but in the advanced parts of India where the people will appreciate the blessings to be conferred by the reform.

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We understand that His Highness the Maharaja of Gwalior has subscribed the handsome sum of Rs2,000 to the East India Association through its eminent Chairman, Sir Lepel Griffin. We trust that other Chiefs will also liberally support an old Association that has done, and is doing, so much for India.—*Asiatic Quarterly Review*, January, 1896.

#### A COTTON CONFERENCE.

We understand that there is a probability of a Cotton Conference, composed of leading representatives of Manchester manufacturers and labor being convened by the Indian Constitutional Association at an early date to meet eminent Anglo-Indian officials or ex-officials with the view of arriving at a *modus vivendi* that shall be satisfactory alike to India and to Lancashire. We believe that the solution, *par excellence*, of this troublesome question is given in this issue by Sir Richard Garth's article and we sincerely trust that the proposed Conference will consider it with the view of giving a practical effect to his valuable suggestion. We would also propose that Bombay Mill-owners be invited to the Conference, for they, and not officials, represent "the other side of the question" and if, as we believe, their interests can be shown not to be antagonistic to Lancashire, that would largely benefit both itself and India by adopting Sir R. Garth's proposal, a happy consummation, rather than a compromise, will be reached by the deliberations of Manchester, with Bombay, men. We also understand that the EAST INDIA ASSOCIATION, which has taken such a leading and continuous interest in the question, will give its rooms and the prestige of its auspices to the Conference as soon as the Indian Constitutional Association is ready with its programme.

## KASHMIR.

BY WALTER R. LAWRENCE, C.I.E.

WHEN I was asked to give a lecture on Kashmir I had to consider the subjects which might prove interesting, and I have decided to look upon you as about to proceed to the beautiful Valley and shall mention a few of the things which may be worth your notice. I will not distract you with figures and statistics. These can be obtained from books. I will only mention that the Valley of Kashmir is cradled in the Himalayas at an average height of 6,000 ft. above the sea, that it is about 84 miles in length, and 20 to 25 miles in breadth. North, East and West range after range of mountains guard the Valley from the outer world, while on the South it is cut off from the Punjab by rocky barriers 50 to 75 miles in width. Away from the world, away even from the moonsoon rains of India one might have expected that Kashmir would have been left to itself, but its beauty and rumoured wealth allured the Moghals, and from the end of the 16th century the Kashmiri people have groaned under a foreign yoke. New masters introduced new manners, but there is a passive resistance about the Kashmiri which gently baffles all suggested changes, and from the first the people have looked upon their Moghal, Pathan and Sikh rulers as institutions not come to stay. Their customs and ideas have therefore not been greatly affected by foreign influence, and the Kashmiris are now very much what they were in the old days of Hindu rule. But at last there came the English with their assignees the Dogras and their Pax Britannica, and I think the Kashmiri is beginning to grasp the idea that there is a permanency in this newest phase of their history. I believe that the ideas and customs of the people will change, and I admit that in some directions change is desirable. It is of the highest importance that the people of Kashmir should have some permanent solid fact to cling to. It was pathetic to see a whole nation absolutely incredulous of any permanence of institutions or of the existence of good in man or in nature. Tyrant after tyrant tortured and degraded them, while as awful interludes came fires, floods, earthquakes famines, and cholera. If you go as I hope you will to Kashmir, on your way to the Capital—Srinagar—you will pass a place named Pattan where you will see two stately temples of the 9th century—injured alas! by the push of an earthquake. In Pattan there is a population of about 165 families. In 1885 seventy persons perished in the earthquake. In 1892 55 persons were carried off by cholera. Picture this happening in an English village. I think the survivors would be unhinged—apt to question the truth that all is ordered for the best. It is sad to listen to a man recounting in a simple matter of fact way how some of his relatives perished in the famine of 1877-79, how others were crushed to death in the earthquake of 1885, and how the few survivors dropped like

flies in the cholera of 1892. I have been a witness of the horrors of the cholera, and of the ruin of the floods, while of famine and earthquake there are many silent though vivid mementoes. One sees in the courtyard of the house a wigwam made of branches—it is a retreat for the family when the earth begins to shake. One talks to a villager on any subject and the famine like King Charles the First in Mr. Dick's Memorial is at once dragged in, and with a sigh he quotes the old sad proverb: "Drāg tsalih tah dag tsalih na,"—the famine has gone but its stains remain. I think that much that is to be regretted in the disposition of the Kashmiris arises from the constant fears and doubts which they feel regarding the terrible forces of nature. The Valley is full of superstitions, which the religions of the country foster and accentuate; the administrations of the past have shaken all faith in the honesty and benevolence of rulers, and when on the top of this calamities recur again and again, which make men lose all confidence in the order of the universe, we have a chain of circumstances not conducive to the formation of a vigorous and reliant national character. Superstition has made the Kashmiri timid. Tyranny has made him a liar, while physical disasters have made him selfish and incredulous of the existence of good. Fires, famines, floods and cholera can all be prevented, and the consideration that efforts devoted to the removal of these evils will eventually result in the moral amelioration of the much abused and little pitied inhabitant of Kashmir, should excite the State to grapple with them regardless of cost and labour.

I have dwelt on this subject because it has been the fashion to abuse the Kashmiri, to scoff at his cowardice, and to pillory him as a liar. No one made allowances for his unfortunate surroundings, and the officials in order to justify a system of government which was cruel and wrong, urged adroitly that the Kashmiri was a peculiar person who required peculiar treatment. The officials used to tell me more in sorrow than in anger that the cultivators of the Valley were lazy, dishonest and treacherous. They were lazy because the simple proposition "Yus karih gonglu sui karih krao"—"he who ploughs shall reap" was ignored at harvest time, and the tax collector took what he liked; they were lazy because they were seized for forced labour at a time when the rice fields required their close attention day and night; they were dishonest for their masters were dishonest, and I doubt whether in Kashmir honesty was the best policy under the old régime; they were treacherous for a terrible system had been introduced of espionage and blackmailing—a system which has had a sad effect on the national character. Every man distrusts his neighbour as being a potential spy. A curious result of this espionage is the absence of crime. Out of an agricultural population of 671,000 only 40 find their way to prison in a year. Criminal pursuits become unpopular when one's neighbours are all members of a very efficient Criminal Investigation Department. I will not go into the question of the hateful *corvée* which has been abolished but I can never forget that common and saddest of sights in Kashmir—the large group of men sitting on the ground awaiting in anxious doubt the orders of the Pressgang. Their faces would have furnished studies of fear, hate, hopelessness and shame. A great change



has come. So far as agriculture is concerned the Kashmiris are no longer lazy. No man can work harder or more efficiently than the Kashmiri when he has the will. I have seen them perform prodigies of effort and strength when restoring some old shrine under the leadership of the abbot. I have seen them carrying loads for the repair of an irrigation work which would astonish an Englishman, and I have seen rice fields and vegetable gardens cultivated in a manner which could not be surpassed by an English agriculturist. I think that the rampant and widespread dishonesty of old is passing away, and that if the officials deal fairly by the people they will respond. At any rate they now pay their revenue, and feel some shame when detected in a lie. Confidence has been won and hope has been awakened.

I will not weary you by details of the abuses which existed and of the reforms which have been introduced. I have only alluded to the disadvantages under which the Kashmiris have lived in order that those of you who may visit the Valley may not accept at once the proposition "that every prospect pleases and only man is vile." If you will make allowances for their past history and think of the old system of Government, and if you will talk to the people in their villages away from the artificial and corrupting influence of Srinagar you will find a clever witty, gentle and charming folk, living quiet useful and honest lives. In their domestic relations they are admirable—one never hears of scandals. All they ask for is to be left alone in their lovely valleys and their simple prayer is one which happily finds no place in our English Litany "Hākīm tah Hākīm," from "the ruler and the doctor good Lord deliver us." They believe in an hereditary curse, but I am glad to say that an idea has now sprung up that the curse came to an end with the flood of 1893.

If you go by the mail you can reach Kashmir in 3 weeks, and at Baramula where the great river—the Hydaspes of the ancients—leaves the valley you will find a boat awaiting you in which you spread your bed and set up your table. Your boat will cost you about £1 a month, and one of the clever crew will board you for a shilling a day. He will give you excellent mutton and fowls, fish of the river, the best of fruit and good vegetables, but you must eschew beef for Mussalman Kashmir is under the rule of a Hindu Chief. The crew will tow you up the river, and if you are wise you will walk along the bank, treading as you go the blue iris and enjoying the music of a thousand larks. As the river winds you look on some new snow peak rising into the turquoise sky over the deeper blue of the mountains. Then when lunch time comes you will be glad in June to sit under the shade of the most perfect tree in the world—the Oriental Plane—the Chenar. This Royal tree was introduced by those grand Moghals who loved, appreciated and embellished the beautiful valley. If as you ought you arrive in Spring you will find Kashmir alight with the pink and white promise of the orchards, and if you are lucky you will see a wonder of colour in the almond blooms. You will I hope pay a visit to the hop-gardens where we have grown good hops for the great Indian brewery, and have made a handsome profit. Soon after this you will reach the entrance to the great lake—the Wular, a corruption of the Sanskrit Ullola, the lake

with the "high going waves." This covers an area of 78 square miles, and produces the Singhara nut—or water chestnut. Its kernel which is white and mealy is either ground into flour, or parched and eaten as porridge. One pound is sufficient for a day's food. The Wular is much dreaded by the boatmen and if there is a sign of wind the lake with the "high going waves" is left severely to itself. Once when time was pressing I insisted on crossing, but before we had gone far I saw the folly of my order. The boats are flat bottomed and their thatch roof places one at the mercy of the wind. My boatmen gave up paddling and fell to their prayers, and the father of the crew solemnly informed me that he thought it time to tie the legs of his 3 sons together. When I asked the object of this extraordinary proceeding he said it would facilitate the recovery of their corpses. Once Maharaja Gulab Singh—the Dogra Chief to whom the English assigned Kashmir—was caught in a storm. At the advice of a Brahmin Minister he doffed his turban in acknowledgment of the superior power of the King of the Lake. The storm of course then ceased.

After pleasant windings, passing on your way picturesque villages, screened by willows and alive with rosy-faced pretty children you will come to the City of the Sun, Srinagar, to my mind in spite of its confusion and squalor the most beautiful and interesting place I have ever seen. As you proceed up the river now running hard between the cedarn bridges which knit the river-banks into one, little barks laden with curios dart out from the banks, and plausible fluent English speaking pirates step jauntily on your boat and announce that your Honour is going to bank with them. Silver, copper, brass, papier-maché, wood-carving, and exquisite stuffs of shawl wool fine as silk are poured out on your deck, while for six shillings you may buy a suit of homespun. The neighbourhood of Srinagar is delightful, and there is no more beautiful spot in the world than the Dal Lake, around which cluster memories of the splendid Moghal times. The beautiful gardens of Shalimar and Nishat, pleasure haunts of Selim and Naurmahal—the breezy park of Planes, dotted with the white tents of the English visitors who bathe and fish and sail, and enjoy a holiday of shooting, cricket, polo and golf such as no other country can give—these will not disappoint the most exacting. I can quite understand the feelings of the Emperor Jehangir, when he was asked on his death bed if he wanted anything, he replied: "Only Kashmir;"—Only Kashmir!—only exquisite scenery—snow-capped mountains, infinitely varied in form and colour such as an artist might picture in his dreams,—grand forests through which fall mountain streams white with foam, passing in their course through pools of the purest cobalt. Below the forests are the brighter woodlands, and the banks of the streams are ablaze with clematis, honeysuckle, jasmine, and wild roses. Then the green smooth turf of the woodland glades like a well kept lawn dotted with clumps of hawthorn and other beautiful trees and bushes.

Only Kashmir! only a perfect and varied climate where delicate English people and pale children grow strong and well, thanks to the pure clear air and the healthy outdoor life in the boats and tents.

Only sport of every kind and excellent, mountains for the mountaineers,

flowers for the botanist—a vast field for the geologist and magnificent ruins for the archæologist, and above all the kindest of welcomes from the ruler of the country and his officials. Maharaja Gulab Singh once said that the British Subaltern was in his eyes equal to a King, and this sentiment still prevails. The official will stop his work and devote his whole energies to providing for the comfort of an English visitor. To him the most valued of possessions is a scrawl in pencil to the effect that he gave satisfaction to some English visitor. I remember once an old official for whom I entertained great respect and affection showing me when we were at work together on an irrigation channel a pencil note from a British Subaltern. It ran: “Mirza Fateullah is an excellent official. He turned out beaters for me at an hour’s notice. He deserves promotion and would make an admirable Governor.” Mirza Fateullah will never be Governor of Kashmir, but he is very proud of the Subaltern’s certificate, and it was touching to see the care with which the old gentleman replaced the note in his pocket-book among many other ancient yellow documents of a similar nature. When you are camping in the park of Planes on the Dal Lake you might care to see Raghonathpura where we reel the silk of Kashmir, and having seen this you may desire to see the district where the silkworms are reared. To do this you would go by boat to Islamabad or Anantnag “the place of the countless springs.” On your way up the river you might stop at Pampur to see the saffron fields, for the saffron of Kashmir is renowned for its bouquet and colour. It is a costly substance, and the Hindus of Kashmir are beginning to substitute cheaper pigments for their “Tikas,” or forehead marks. But the rigid Hindu will stint himself in other luxuries in order to daub his brow with the saffron. The mark gives him a Mephistophilean look. From Pampur you might visit the sulphur springs of Weean. The water strongly impregnated with sulphuretted hydrogen is nevertheless most pleasant to drink. Higher up the river you will come to Bijbehara, and I hope you will alight to see the modern Temple where my good friend Gobind Ram is high priest. He has a taste for architecture and landscape gardening, and we have made many an alteration together, always on the outside of the Temple. A tolerant, charming Hindu with something of the Buddhist about him. Then you come to Anantnag and as your boat draws under the bank a delightful man with a benignant face not unlike a Roman Catholic Priest bids you welcome. This is Lassu Kotwāl, as charming a man as the world has ever produced. He has volumes of letters from Englishmen, and he shows with great pride a correspondence with an English Duke, which speaks well for Lassu and well for his correspondent. Lassu takes you to a lovely orchard past the grassy banks of which the Hydaspes river flows swift. Here your crew pitch your tents under the apple-trees. At evening the local art vendors will pay you a visit, and marvellous song birds will sing for you in their cages. Up in the morning—such a morning! fresh, sunny and clear. You walk or ride up over a bluff and see the marvel of Kashmir—the Temple of the Sun—Martand—“precious specimen of ancient art, deserving a foremost place among the remains of antiquity.” Here is a description of it by one who knew it well:

“Cunningham thinks that the erection of this Sun-temple was suggested by the magnificent sunny prospect which its position commands. It overlooks the finest view in Kashmir, and perhaps in the known world. Beneath it lies the paradise of the east, with its sacred streams and glens its orchards and green fields, surrounded on all sides by vast snowy mountains, whose lofty peaks seem to smile upon the beautiful valley below. The vast extent of the scene makes it sublime, for its magnificent view of Kashmir is no petty peer in a half-mile glen, but the full display of a valley 60 miles in breadth and upwards of 100 miles in length, the whole of which lies beneath the ‘ken of the wonderful Martand.’” You will stay some time at Martand—and then walking through deep crops of miller, amaranth and buckwheat, you will descend into a valley green with the lush rice plant and cross over to Achabal. There out of a hill covered with Deodars gurgles a spring the like of which I have never seen. You pass into a cool terraced garden and pitch your tents under a shady Plane tree. Then comes the good gardener—bearing delicious white-heart cherries, or later peaches, with asparagus and watercress, and he like Lassu makes you welcome, and shows you volumes of letters from English visitors. If you have friends at court you may walk up the hill covered with lovely roses and have a shot at a bear, or as winter draws on you may find the grand stag of Kashmir—the Bára Singh. You will linger at Achabal and wander over the Summer Palace which Emperor Jehangir loved so well. Then you go up the valley where the silk-worms are fattening on the endless store of mulberry leaves. It is a wonderful thing this wealth of mulberries. We do not allow anyone to fell a mulberry-tree. The luscious fruit feeds men, cattle, sheep, and even dogs, and the State has wisely clung to the idea that there is a future for sericulture. *There is a grand future.* By adopting Pasteur’s system we have raised healthy silk-worm eggs, we have mulberry leaves at discretion. We have in the ordinary Kashmir houses potential “magnaneries,” and we have a class of people known as the Kirm Kash, or worm destroyers, who thoroughly understand the business of rearing silkworms. Our silk has been highly praised by European experts, and all that is wanted to make silk in Kashmir a great and remunerative industry is the introduction of British capital. We have shown that silk can be produced, but we want the energy and supervision which private enterprise can alone give. As it is in silk so it is in wine and hops. I ought to have told you that the vineyards on the Dal Lake produce a Medoc and Barsac sound and excellent, and few of the visitors to Kashmir think it necessary to import wines from India. I ought also to have told you that one year I made cider which was highly esteemed by men of Devonshire. Mr. Knight in his book “Where three Empires meet” speaks kindly of my cider and as during his stay with me in camp he drank nothing else I know that his praise was like all else of his—genuine.

You must enter the ordinary Kashmiri cottage where the silkworms spin their priceless fibre. The house is airy, but it can be made very warm. When the silkworms are feeding it is kept very clean. You hear a curious munching sound like a fat whisper, and men are watching anxiously and

hoping that Pebrine or Flaccherie are not about to spoil the rich promise of the season.

From Kotahar we go back past Achabal, take another look at Martand and drop down to shady Báwan in the Liddar valley. Here at Báwan is a spring most sacred to the Hindus and here too is a fane where the Sikh priest reads the holy Granth. For you must know that over 4,000 of the Kashmiris are Sikhs. You must not angle here for the fish are sacred and it is quite possible that the carp into which the late Maharaja is supposed to have entered may have found his way hither.

Up the lovely Liddar Valley you ascend gradually under shady elms and walnut trees to the castle like shrine at Aish Makám. This is the famous shrine of Zain Shah a disciple of Kashmir's great national Saint—Shekh hur Din—a saint more revered in the villages than any of your foreign Saiyads. The men of the shrine wear a peculiar headdress, with zig-zag bars of colour. Once on a time one of the servants of the shrine who had been sent out by Zain Shah for some work was seized by the officials for forced labour. Zain Shah in his anger caused the Liddar river to dry up thereby inflicting great loss on the rice crops. The King of Kashmir on hearing of this proceeded to Aish Makám, and in order to prevent similar mistakes occurring in the future suggested that Zain Shah's followers should wear a distinctive headdress. The shrine is much respected by the boatmen of Kashmir. Hither they bring their children and cut off their first locks of hair. If this were done elsewhere the child would die or become blind. The votive offering of the boatmen is a fat ram with brow gaily bedecked with the lids of tändstickor match boxes.

Talk to the Abbott of the shrine and he will tell you many stirring tales. The whole valley is rich in superstitions and there is not a mountain, river or spring which has not some quaint legend attached to it. On the great mountains are demons in the form of fair women who sing sweet songs before they crush the passing traveller with an avalanche. On the Zogi-la pass offerings are still made to these cruel sirens.

In the crest of Haramak the grim mountain that guards the Sind valley there is a vein of emerald which renders innocuous the most poisonous of snakes within its sight. In the deep silent weird green lakes which are found on the top of the high ranges there are dragons breathing fire, and strange tales are told of Konsa Nág where monsters seize the unwary traveller and drown him in the depths of the lake.

Sitting night after night by the camp fire, listening to these tales and hearing from intelligent and trustworthy men their own experiences of incidents miraculous and supernatural I sometimes used to realize with uncanny sensations that there might be more things in Kashmir than were dreamt of in my philosophy.

Everyone believes in the Rozlu spring and its divining power. When the throes of divination come on the water of the spring is violently agitated for two days and finally disappears giving place to a muddy bed. On this bed if war is imminent swords and guns are seen. If famine is approaching shapes of winnows, handmills and rice huskers are clearly shown, and when cholera is near the form of graves and spades appears. Not many

years ago great excitement was caused by the appearance of tents and helmets, and the late Maharaja had horsemen posted along the road to report whether these signs again appeared.

Often it happens that one of the sacred springs of the Hindus turns colour. If the water is of a violet colour—all is well. But if it turns to black beware of cholera and famine.

There are half mad soothsayers, to whom great respect is shown by all classes. I once visited the most renowned of these and found him when the fit was on him. He waved me away, but roared out excellent advice as I left his mountain retreat somewhat crestfallen. He shouted "Go home and read your books."

This unpleasant old man when he condescended to mundane affairs was an extremely sharp and business-like person and holds more land than he has any real title to. It is impossible to live six years among a people believing absolutely in supernatural agencies—to work with clever educated men steeped in old world tales and superstitions and to dismiss the whole question with a laugh.

From Aish Makám you must go up to Pahlgám. Your tents will be pitched in a lovely pine forest at the head of the Liddar valley. There you are close to the glaciers and you may chance to fall in with the great pilgrimage to the cave of Amarnáth. Pilgrims from all parts of India and Kashmir toil wearily up the rough mountain track to worship this solid dome-shaped mass of ice formed by frozen springs inside the cave. Before they enter men and women discard their clothes and covering their nakedness with strips of birch bark call on Śiva to appear. If the God is propitious pigeons flutter out from the cave.

From Pahlgám you can walk over snow bridges and strike the Sind valley—in short you can travel for months with grand or lovely scenery meeting you on every march.

I have perhaps told you enough of the scenery and may be less tedious if I tell you something of the people. My relations with them were very pleasant. They did not treat me as an official, and after two years they threw off much of their reserve and talked to me freely. They are a clever somewhat cynical people, with a decided turn for humour. One old man followed me with a petition and when I had given orders thrice on his case I told him that he would be made over to the authorities if he appeared again. Long after as I sat one evening listening to the music and songs of some minstrels, the old man appeared with a paper in his hand. I at once ordered him to be stopped, but he said "this is not a petition, but a poem." He then read out his poem which recited the old grievance.

Once as I was hearing petitions I noticed an elderly Hindu standing for at least five minutes on his head. No one took any notice of him. At last fearing that the old man might injure himself I had him placed on his feet. When questioned as to his attitude he said that thanks to my arrangements his affairs were so confused that he did not know whether he was standing on his head or his heels.

They are a people of symbols. Formerly it was no doubt necessary to attract the attention of their rulers by some striking demonstration. Men

who have a grievance will fling off their clothes and smear themselves with wet mud. The nakedness implies destitution : the mud signifies that they are reduced to the condition of a clod. Many a time I have seen a procession—one man wears a shirt of matting, another has a straw rope round his neck with a brick pendant—another carries a pan of hot embers on his head while in the rear comes a woman bearing a number of broken earthen pots. This was bad, but more inconvenient was the practice of casting a plough under my horse's feet as I rode along in order to emphasise the fact that agriculture no longer possessed charms for the proprietor of the plough.

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A man once came to me carrying the corpse of a child which to my horror he placed in my arms and alleged that his enemies would not allow him even burying ground. He had a land suit in his village and he wished to strengthen his case by arousing my indignation. Once a man appeared at Nágmarǵ a place some 9,000 feet high. He was stark naked and said that his uncle had turned him empty into the world. It was bitterly cold and night had fallen. So I gave him a suit of old clothes, and by way of jest said that as he was now dressed as an Englishman he should assert his rights. He shambled down the mountains holding up with difficulty his new garment and next day the uncle came into my camp charging the nephew with an aggravated assault, and offering in his shattered appearance convincing proof. It is always dangerous to jest with Kashmiris.

For some time until it became common-place and painful much of the daily life of the villager in Kashmir recalled scenes from "Alice in Wonderland." Everyone seemed to be acting on his own account regardless of authority or of the rules of ordinary conduct, and everyone was rushing about aimlessly trying to find some remnant of his property or invoking justice very loudly, but very uselessly. As I travelled through the villages I would suddenly meet a man—perhaps some old soldier who was explaining to an excited suspicious crowd that he was the collector of a new tax of which no one had ever heard—a tax on violets perhaps—or on some of the thousand medicinal herbs in which Kashmir abounds. I would ask for his written authority—He had none. I would ask for what official he was collecting—He would rather not say. Eventually the indignant crowd would hustle him out of the village and the old soldier would disappear from the fiscal system.

It was a common thing to see villagers on the mountains far distant from their homes anxiously trying to find their sheep which they annually entrust to the Chaupán or shepherd. The professional shepherd is a great rogue and usually steals a few sheep from each client producing the skin, and alleging that the sheep was taken by a panther or bear. It is useless to expect redress on the mountains for the saying is true

"Koh kotwál, yár subahdár"

the mountain is the magistrate and the pine the policeman, and both are deaf to the villager's complaint.

I remember one incident that illustrates the extraordinary want of sym-

pathy which too often characterizes the native official. I was inspecting a village in company with the cultivators and their chief man. I had been lecturing the headman on his reputation as a tyrant and he had cheerfully assented, saying "I daresay I am somewhat of an elephant, and they the villagers are certainly chicken." As we conversed a man drew near and whispered something to the headman. We walked on over the fields examining the soil and the crops and I noticed that my companion seemed preoccupied and confused. Suddenly he said "Would you mind my returning to my house? My wife has just been killed by the fall of the hill-side." I expressed my sympathy and sent him off. As he was going the village watchman bawled out "Don't you bury her till I return as we must have an official inquest." This was the official view of a village tragedy, and it struck none of the villagers as unfeeling.

The Musalmáns of Kashmir who represent 93 per cent. of the population are not a very religious people if one were to accept the opinion of their priests. "They are religious enough in cholera time," said an old Mullah to me, "but in fair weather they neglect their duties to God." The fact is that the so-called Mussalmáns of Kashmir are at heart Hindus and their forcible conversion to Islám did not eradicate the old ideas. They are well named the "Pír parast" or saint worshippers and all that is reverent in their nature is reserved for the shrine where the saint lies buried. As a Kashmiri approaches the holy spot he dismounts from his pony and with lowly obeisance smears his forehead with the dust of the shrine portals.

The shrines are associated with legends of self-denial and good works: They are pleasant places of meeting at fair time, and the natural beauty of their position and surroundings may have an effect on the artistic temperament of the Kashmiri which the squalid mosques have not. A crystal spring beneath noble brotherhoods of venerable trees in some sequestered glen was sure to attract one of the recluses of old time who led blameless lives and taught simple homely morality. The style of the shrine building is always the same, and it owes its pagoda like appearance to Chinese influence. For it must be remembered that Kashmir is on the high road to China and many facts point to the conclusion that in ancient days there was a close connection between the happy valley and the Celestial Empire.

The Kashmiri holds strongly the belief that "Saints will aid if men will call." Sick men will regain health, women will be vouchsafed children, and the litigant will win his suit if a pilgrimage is paid to the shrine.

The traveller in Kashmir can discover interesting traces of the foreign influences under which the valley has from time to time fallen. Buddhists from Ladákh still regard as sacred the site on which the great mosque of Srinagar stands. Scarcely a village but contains some spot most sacred to the Hindus and Kashmir is a veritable Holy Land to the people of India. Then clearly to be noted is the influence of the Mughal Emperors and their courtiers who vied with their royal masters in the construction of stately gardens and summer seats. The influence of the Pathan from Kabul and of the Sikh from Lahore was destructive rather than constructive. The Pathans have left their execrable memories in gruesome tales of torture and brutality while with one exception the Sikh rulers are remembered with loathing or contempt.



I trust and believe that a happier era has dawned for the Kashmiris, but they are a timid and sceptical people, and the slightest relapse into confusion and injustice would render them again the same hopeless, desperate wanderers as they were a few short years ago.

Confidence and capital would make Kashmir the wonder and envy of the world. With a soil and climate suited to the production of all the staples that are to be found in a temperate clime: with water power and water carriage everywhere available: with a people cunning in agriculture and unrivalled as dexterous artizans—surely there is a great future for this delectable country.

Not long ago the inhabitants spoke of the valley as a “Box” from which escape was impossible and great snow mountains suggested nothing to them beyond the hopelessness of flight from tyranny. Let us hope that the description of the valley in the old Sanskrit chronicle will in future be more justly applied. “It is a country where the sun shines mildly being the place created by Kashayapa as if for his glory. High school houses, the saffron, iced water, and grapes which are rare even in Heaven are common here. Kailásá is the best place in the three worlds: Himalaya the best part of Kailasa and Kashmir the best place in Himalaya.”

If you will go to “Cachemire the Paradise of the Indies” as it was styled by old Bernier you will see that the Sanskrit chronicler Kálhana was right and that Kashmir is not only the best place in the Himalaya but the best place in the world.

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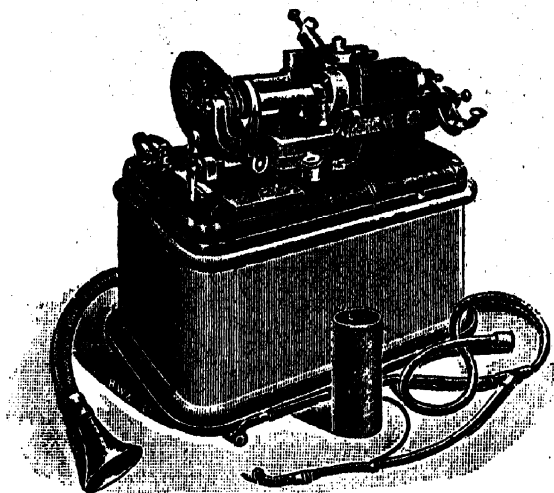
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